



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 220203-0038]

RIN 0648-BK43

Fisheries Off West Coast States; West Coast Salmon Fisheries; Federal Salmon Regulations for Overfished Species Rebuilding Plans

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes revisions to regulations that implement the Pacific Fishery Management Council's (Council) Pacific Coast Salmon Fishery Management Plan (FMP). This proposed action would remove a rebuilding plan for Sacramento River fall-run Chinook salmon (SRFC) from regulation, as this stock has been rebuilt and is no longer required to be managed under a rebuilding plan, and would update language to reflect the 2013 merger of NMFS' Northwest Region (NWR) and Southwest Region (SWR), which created NMFS' West Coast Region (WCR).

DATES: Comments on this proposed rule must be received on or before *[insert date 15 days after date of publication in the **Federal Register**]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0002 by the following method:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov and enter NOAA-NMFS-2022-0002 in the Search box. Click the "Comment" icon, complete the required fields, and enter or attach your comments.

Instructions: Comments must be submitted by the above method to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Shannon Penna, Fishery Management Specialist, at 562-676-2148, or *Shannon.Penna@noaa.gov*.

SUPPLEMENTARY INFORMATION: Regulations at 50 CFR part 660, subpart H implement the management of West Coast salmon fisheries under the FMP in the exclusive economic zone (3 to 200 nautical miles (5.6-370.4 kilometers)) off the coasts of the states of Washington, Oregon, and California.

In 2018, NMFS determined that SRFC was overfished under the Magnuson-Stevens Fishery and Conservation Management Act (MSA). The Council developed a rebuilding plan for SRFC, which it transmitted to NMFS on August 14, 2019. The Council recommended as the rebuilding plan the existing control rule for SRFC, which was adopted as part of FMP Amendment 16 and described in codified regulation at 50 CFR 660.410(c) (76 FR 81851, December 29, 2011). The Council determined that the existing control rule met the MSA requirement to rebuild the stock as quickly as possible, taking into account the status and biology of any overfished stock and the needs of fishing communities (50 CFR 600.310(j)(3)(i)). NMFS approved and implemented the Council’s recommended rebuilding plan for SRFC through a final rule (85 FR 75920; November 27, 2020).

In 2021, NMFS determined that SRFC met the criteria in the FMP for being rebuilt and notified the Council (Letter from Barry A. Thom, NMFS West Coast Regional Administrator, to Charles A. Tracy, Pacific Fishery Management Council Executive Director, dated July 23, 2021). As the stock is rebuilt, it is no longer required to be managed under a rebuilding plan and the SRFC rebuilding plan should be removed from regulation to avoid confusion regarding the stock's status. Additionally, removing the SRFC rebuilding plan from regulation will avoid confusion should NMFS make a future determination that the SRFC stock is overfished again, in which case the MSA requires the Council to prepare and implement a rebuilding plan within two years of that determination (50 CFR 600.310(j)(2)(ii)). Leaving the current rebuilding plan in regulation could be confused as being the default rebuilding plan for SRFC, which was not the intention of the Council nor of NMFS. Therefore, to avoid confusion, it is necessary to remove the existing SRFC rebuilding plan from regulation. Because the rebuilding plan adopted the existing harvest control rule for SRFC that was implemented through notice and comment rulemaking in 2011 (76 FR 81851, December 29, 2011), removing the rebuilding plan from regulation will not change the management of salmon fisheries that affect SRFC. NMFS has determined that a 15-day comment period for this proposed rule is appropriate to allow adequate time for public comment while also allowing for the final rule to be in effect prior to the annual preseason management process for the 2022 ocean salmon fisheries, thereby avoiding confusion about the status of SRFC prior to the fishing season.

In 2013, NMFS implemented a realignment that merged the NWR and SWR to create the WCR. This change was made in order to more effectively manage resources, decision-making, and policy from a holistic West Coast perspective. NMFS proposes to revise the regulations at 50 CFR 660, subpart H, to reflect the 2013 merger of NMFS' NWR and SWR by replacing mentions of NWR and SWR with WCR, and by replacing

mention of the Northwest and Southwest Regional Administrators with West Coast Regional Administrator.

Classification

NMFS is issuing this proposed rule pursuant to section 305(d) of the MSA. This proposed rule implements technical and minor administrative changes to the regulations governing the salmon fishery.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Using the Socioeconomic Assessment of the 2020 Ocean Salmon Fisheries (Chapter IV) of the *Review of 2020 Ocean Salmon Fisheries Stock Assessment and Fishery Evaluation Document for the Pacific Coast Salmon Fishery Management Plan*, the most recent year of complete fishing data, 2020, had 647 distinct commercial vessels land fish caught in Oregon and California. These vessels had an average state-level ex-vessel revenue per vessel of \$39,127; no vessel met the threshold (\$11 million in annual gross receipts) for being a large entity. Because all directly regulated entities are small, these regulation revisions are not expected to place small entities at a significant disadvantage to large entities. The proposed rule would not change harvest policy; thus, by definition, there would be no direct or indirect economic impact or reduction in profit for the directly regulated entities. Therefore, this proposed action, if implemented, is not expected to have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the

Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Recording and reporting requirements.

Dated: February 4, 2022.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.402, revise the definition of “Regional Administrator” to read as follows:

§660.402 Definitions.

* * * * *

Regional Administrator means the Administrator, West Coast Region, NMFS.

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3. In § 660.408, paragraph (m), footnote 2, remove “Director, Southwest” and add, in its place “West Coast”

4. In §660.411, revise paragraph (c) to read as follows:

§ 660.411 Notification and publication procedures.

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(c) *Availability of data.* The Regional Administrator will compile in aggregate form all data and other information relevant to the action being taken and will make them available for public review upon request. Contact information will be published annually in the **Federal Register**, posted on the NMFS website, and announced on the telephone hotline.

5. In § 660.413;

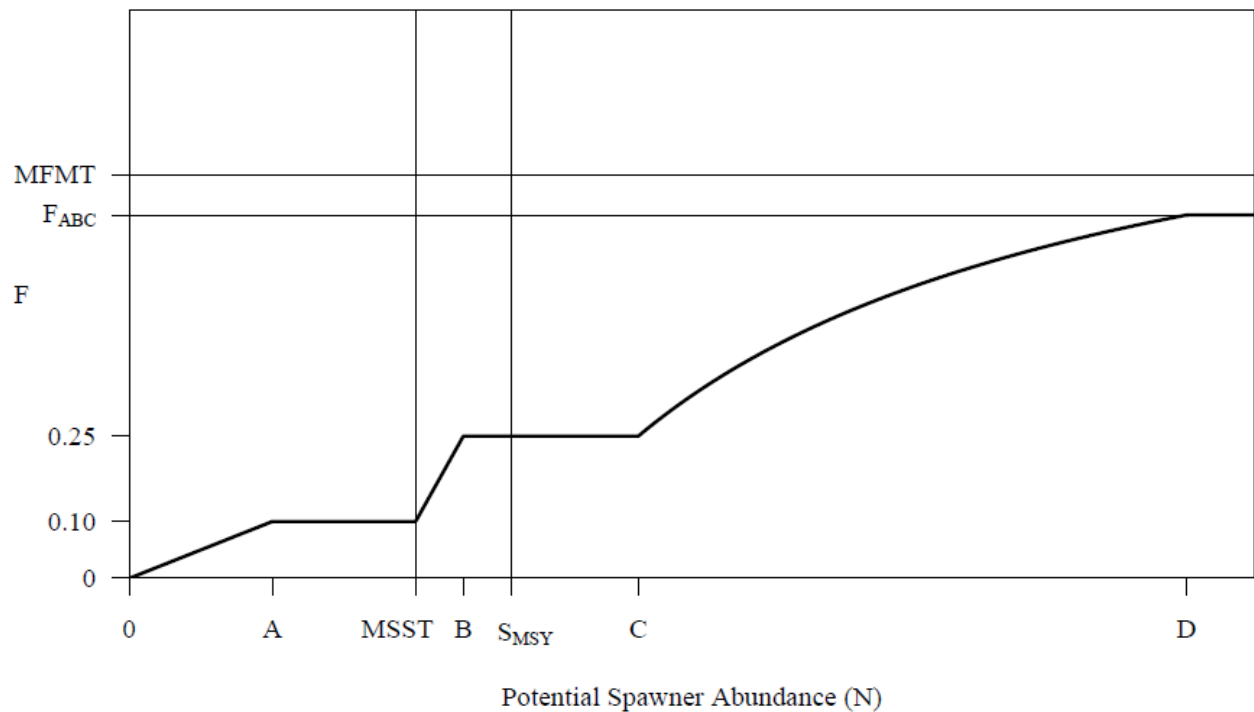
a. Remove and reserve paragraph (b); and

b. Revise Figure 1 to § 660.413.

§ 660.413 Overfished species rebuilding plans.

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Figure 1 to § 660.413 – Harvest Control Rule for Klamath River Fall-Run Chinook Salmon.



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